

## 2011 DRAFTING REQUEST

### Bill

Received: 10/30/2011

Received By: agary

Wanted: As time permits

Companion to LRB:

For: Gary Hebl (608) 266-7678

By/Representing: Mike Murray

May Contact:

Drafter: agary

Subject: Fin. Inst. - WCA

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Hebl@legis.wisconsin.gov

Carbon copy (CC:) to: aaron.gary@legis.wisconsin.gov

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### Pre Topic:

No specific pre topic given

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### Topic:

Pleading requirements for assignees of creditors under the Wisconsin Consumer Act

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### Instructions:

See attached

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### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 11/03/2011	jdye 11/10/2011		_____			
/P1			phenry 11/10/2011	_____	sbasford 11/10/2011		
/1	agary 11/14/2011	wjackson 11/14/2011	jfrantze 11/14/2011	_____	ggodwin 11/14/2011	ggodwin 11/18/2011	

FE Sent For:

*None*

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1/?	agary	PI 11/10 jld	pl 11/10	12/10			

FE Sent For:

<END>

## Gary, Aaron

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**From:** Murray, Mike  
**Sent:** Thursday, November 03, 2011 12:49 PM  
**To:** Gary, Aaron  
**Subject:** RE: Redraft of 2009 AB 131

Hi Aaron, yeah, let's go with the original bill for now

Thanks

Mike Murray  
Office of Rep. Gary Hebl  
46th Assembly District

---

**From:** Gary, Aaron  
**Sent:** Monday, October 31, 2011 2:05 PM  
**To:** Murray, Mike  
**Subject:** RE: Redraft of 2009 AB 131

Hi Mike,  
I take it you want the original bill, and not ASA1 (w/AA1) to AB-131 as adopted by the assembly?

Thanks. Aaron

Aaron R. Gary  
*Attorney, Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
[aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

---

**From:** Gary, Aaron  
**Sent:** Sunday, October 30, 2011 5:29 PM  
**To:** Murray, Mike  
**Cc:** Kunkel, Mark  
**Subject:** RE: Redraft of 2009 AB 131

Hi Mike,  
I'll be the drafter on this one. I have entered it as LRB-3363. Aaron

Aaron R. Gary  
*Attorney, Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
[aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

---

**From:** Murray, Mike  
**Sent:** Friday, October 28, 2011 12:43 PM  
**To:** Kunkel, Mark  
**Subject:** Redraft of 2009 AB 131

Hi Mark,

Gary would like to re-draft 2009 AB 131 (LRB-1964/1) from last session. I see that you were the drafter last time. If this is no longer a subject area you draft, let me know.

Thanks,

Mike

Mike Murray  
Office of Rep. Gary Hebl  
46th Assembly District



State of Wisconsin  
2009 - 2010 LEGISLATURE

soon

- 3363/P1

LRB-4366/1

id:rs

ARB ↑ keep

in 11/3

RMNR

D-Note

LPS  
PWF

2009 ASSEMBLY BILL 131

March 9, 2009 - Introduced by Representatives HEBL, ROYS, COLON, A. OTT, POPE-ROBERTS, BLACK, GUNDERSON, BERCEAU, TOWNSEND, MOLEPSKE JR., SPANBAUER, FIELDS, HINTZ and SEIDEL, cosponsored by Senators TAYLOR, LEHMAN, LASSA and MILLER. Referred to Committee on Judiciary and Ethics.

X

Regen

- 1 AN ACT *to amend* 425.109 (1) (intro.) of the statutes; **relating to:** pleading
- 2 requirements for assignees of creditors under the Wisconsin Consumer Act.

**Analysis by the Legislative Reference Bureau**

✓ Under current law, a consumer credit transaction in which the amount financed is \$25,000 or less, and which is entered into for personal, family, or household purposes, is generally subject to the Wisconsin Consumer Act (WCA). ✓ The WCA includes requirements for a creditor to satisfy to enforce rights arising from a consumer credit transaction that is subject to the WCA, including pleading requirements for a complaint filed by a creditor to enforce such rights. ✓ In *Rsidue, L.L.C. v. Michaud*, 2006 WI App 164, 295 Wis. 2d 585, 721 N.W. 2d 718, the Wisconsin Court of Appeals held that, because the WCA does not refer to an assignee of a creditor, the pleading requirements do not apply to an assignee. ✓ This bill amends the WCA to specify that the pleading requirements do apply to an assignee of a creditor.

\*

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

SECTION 1. 425.109 (1) (intro.) of the statutes is amended to read:

3

(b), (d), (f) and (h) and (2)  
are

**ASSEMBLY BILL 131**

## SECTION 1

1           425.109 (1) (intro.) A complaint by a creditor or its assignee to enforce any  
2           cause of action arising from a consumer credit transaction shall include all of the  
3           following:

**(END)**

4

insert  
2-4

D-Note



**2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3363/P1ins  
ARG:.....

**INSERT 2-4:**

(b) A description of the collateral or leased goods, if any, which the creditor or assignee seeks to recover or has recovered.

(d) The actual or estimated amount of U.S. dollars or of a named foreign currency that the creditor or assignee alleges he or she is entitled to recover and the figures necessary for computation of the amount, including any amount received from the sale of any collateral.

(f) Except in an action to recover goods subject to a consumer lease, the estimated amount of U.S. dollars or of a named foreign currency of any deficiency claim which may be available to the creditor or assignee following the disposition of any collateral recovered subject to the limitations of s. 425.209 or which the creditor or assignee seeks to recover and which the creditor or assignee intends to assert subject to the limitations of s. 425.210 if the customer fails to redeem the collateral.

(h) An accurate copy of the writings, if any, evidencing the transaction, except that with respect to claims arising under open-end credit plans, a statement that the creditor or assignee will submit accurate copies of the writings evidencing the customer's obligation to the court and the customer upon receipt of the customer's written request therefor on or before the return date or the date on which the customer's answer is due.

(2) Upon the written request of the customer, the creditor or its assignee shall submit accurate copies to the court and the customer of writings evidencing any transaction pursuant to an open-end credit plan upon which the creditor's claim, or



- 1 the claim of the creditor's assignee✓, is made and judgment may not be entered for the
- 2 creditor or assignee unless the creditor or assignee✓ does so.

**History:** 1971 c. 239; 1983 a. 389; 1991 a. 236.

(end ins)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3363/P1dn

ARG:.....

date

JLd

ATTN: Mike Murray ✓

Please review the attached draft carefully to ensure that it is consistent with your intent. In this redraft, I have made changes to 2009 AB-131✓ I believe that the treatment of additional provisions in s. 425.109 is necessary to maintain consistency with the treatment, in 2009 AB-131, of the (intro.) provision to s. 425.109 (1)✓. Please advise if any of the additional treatments in this redraft is not consistent with your intent. I believe that no treatment of s. 421.201 (6) (a)✓ is necessary here.

Please let me know if you would like any changes✓ made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.state.wi.us

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3363/P1dn  
ARG:jld:ph

November 10, 2011

ATTN: Mike Murray

Please review the attached draft carefully to ensure that it is consistent with your intent. In this redraft, I have made changes to 2009 AB-131. I believe that the treatment of additional provisions in s. 425.109 is necessary to maintain consistency with the treatment, in 2009 AB-131, of the (intro.) provision to s. 425.109 (1). Please advise if any of the additional treatments in this redraft is not consistent with your intent. I believe that no treatment of s. 421.201 (6) (a) is necessary here.

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Legislative Attorney  
Phone: (608) 261-6926  
E-mail: [aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

**Gary, Aaron**

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**From:** Rep.Hebl

**Sent:** Monday, November 14, 2011 11:33 AM

**To:** Gary, Aaron

**Subject:** RE: Draft review: LRB 11-3363/P1 Topic: Pleading requirements for assignees of creditors under the Wisconsin Consumer Act

Hi Aaron, Gary approved your updated version. Thanks for your help

Mike

Mike Murray  
Office of Rep. Gary Hebl  
46th Assembly District

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**From:** LRB.Legal

**Sent:** Thursday, November 10, 2011 11:29 AM

**To:** Rep.Hebl

**Subject:** Draft review: LRB 11-3363/P1 Topic: Pleading requirements for assignees of creditors under the Wisconsin Consumer Act

**Following is the PDF version of draft LRB 11-3363/P1 and drafter's note.**

11/14/2011



State of Wisconsin  
2011 - 2012 LEGISLATURE

TODAY



LRB-3363/21 /

ARG:jld:ph

in 11/14 stays RMA

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

no changes

Regen

- 1 **AN ACT to amend** 425.109 (1) (intro.), (b), (d), (f) and (h) and (2) of the statutes;  
2 **relating to:** pleading requirements for assignees of creditors under the  
3 Wisconsin Consumer Act.

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***Analysis by the Legislative Reference Bureau***

Under current law, a consumer credit transaction in which the amount financed is \$25,000 or less, and which is entered into for personal, family, or household purposes, is generally subject to the Wisconsin Consumer Act (WCA). The WCA includes requirements for a creditor to satisfy to enforce rights arising from a consumer credit transaction that is subject to the WCA, including pleading requirements for a complaint filed by a creditor to enforce such rights. In *Rsidue, L.L.C. v. Michaud*, 2006 WI App 164, 295 Wis. 2d 585, 721 N.W. 2d 718, the Wisconsin Court of Appeals held that, because the WCA does not refer to an assignee of a creditor, the pleading requirements do not apply to an assignee. This bill amends the WCA to specify that the pleading requirements do apply to an assignee of a creditor.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 4 **SECTION 1.** 425.109 (1) (intro.), (b), (d), (f) and (h) and (2) of the statutes are  
5 amended to read:

1           425.109 (1) (intro.) A complaint by a creditor or its assignee to enforce any  
2           cause of action arising from a consumer credit transaction shall include all of the  
3           following:

4           (b) A description of the collateral or leased goods, if any, which the creditor or  
5           assignee seeks to recover or has recovered.

6           (d) The actual or estimated amount of U.S. dollars or of a named foreign  
7           currency that the creditor or assignee alleges he or she is entitled to recover and the  
8           figures necessary for computation of the amount, including any amount received  
9           from the sale of any collateral.

10          (f) Except in an action to recover goods subject to a consumer lease, the  
11          estimated amount of U.S. dollars or of a named foreign currency of any deficiency  
12          claim which may be available to the creditor or assignee following the disposition of  
13          any collateral recovered subject to the limitations of s. 425.209 or which the creditor  
14          or assignee seeks to recover and which the creditor or assignee intends to assert  
15          subject to the limitations of s. 425.210 if the customer fails to redeem the collateral.

16          (h) An accurate copy of the writings, if any, evidencing the transaction, except  
17          that with respect to claims arising under open-end credit plans, a statement that the  
18          creditor or assignee will submit accurate copies of the writings evidencing the  
19          customer's obligation to the court and the customer upon receipt of the customer's  
20          written request therefor on or before the return date or the date on which the  
21          customer's answer is due.

22          (2) Upon the written request of the customer, the creditor or its assignee shall  
23          submit accurate copies to the court and the customer of writings evidencing any  
24          transaction pursuant to an open-end credit plan upon which the creditor's claim, or

**3 (END)**



**Godwin, Gigi**

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**From:** Murray, Mike  
**Sent:** Friday, November 18, 2011 10:59 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 11-3363/1 Topic: Pleading requirements for assignees of creditors under the Wisconsin Consumer Act

Please Jacket LRB 11-3363/1 for the ASSEMBLY.